

1 P. Kristofer Strojnik, SBN 242728
2 pstrojnik@strojniklaw.com
3 Esplanade Center III, Suite 700
4 2415 East Camelback Road
5 Phoenix, Arizona 85016
6 415-450-0100 (tel.)

7 Attorneys for Plaintiff

8 **UNITED STATES DISTRICT COURT**

9 **CENTRAL DISTRICT OF CALIFORNIA**

10 THERESA BROOKE, a married woman
11 dealing with her sole and separate claim,

12 Plaintiff,

13 vs.

14 PALMDALE LODGING ASSOCIATES
15 LLC, a California limited liability
16 company,

Defendant.

Case No:

VERIFIED COMPLAINT

(JURY TRIAL DEMANDED)

17 Plaintiff Theresa Marie Brooke alleges:

18 **PARTIES**

19 1. Plaintiff Theresa Brooke is a married woman. Plaintiff is legally disabled,
20 and is therefore a member of a protected class under the ADA, 42 U.S.C. § 12102(2),
21 the regulations implementing the ADA set forth at 28 CFR §§ 36.101 et seq., the
22 California Unruh Civil Rights Act. Plaintiff ambulates with the aid of a wheelchair due
23 to the loss of a leg.

24 2. Defendant, Palmdale Lodging Associates LLC, owns and/or operates and
25 does business as the hotel Embassy Suites by Hilton Palmdale located at 39375 5th
26 Street W, Palmdale, California 93551. Defendant's hotel is a public accommodation
27
28

1 pursuant to 42 U.S.C. § 12181(7)(A), which offers public lodging services. On
2 information and belief, Defendant's hotel was built or renovated after March 15, 2012.

3 **JURISDICTION**

4 3. Jurisdiction in this Court is proper pursuant to 28 U.S.C. §§ 1331 and 42
5 U.S.C. § 12188.

6 4. Plaintiff's claims asserted herein arose in this judicial district and
7 Defendant does substantial business in this judicial district.

8 5. Venue in this judicial district is proper under 28 U.S.C. § 1391(b) and (c)
9 in that this is the judicial district in which a substantial part of the acts and omissions
10 giving rise to the claims occurred.

11 6. Pursuant to *Arroyo v. Rosas*, supplemental jurisdiction is appropriate over
12 Plaintiff's Unruh claim. On a case-specific analysis, there are no compelling reasons to
13 decline jurisdiction.

14 **ALLEGATIONS**

15 7. Plaintiff alleges that Defendant's hotel does not have a compliant access
16 aisle at the passenger loading zone adjacent to the hotel lobby in violation of Section
17 503 of the 2010 Standards. An access aisle has specific requirements to be compliant
18 with the Standards: It must be 60 inches wide and at least 20 feet long, it must have an
19 accessible route adjoining it, and it cannot be within a vehicular way. Section 503.3.

20 8. The requirement for an access aisle at a passenger loading zone is
21 immensely important for a person in a wheelchair such as Plaintiff, as it provides safe
22 access to the entry of the hotel and deters others from placing encumbrances or
23 obstacles there such as a vehicle parking. An access aisle is akin to a cross-walk for
24 pedestrians.

25 9. Plaintiff formerly worked in the hospitality industry and her husband
26 works in the travel industry. She and her husband are avid travelers to California for
27 purposes of leisure travel and to "test" whether various hotels comply with disability
28 access laws. Testing is encouraged by the Ninth Circuit Court of Appeals.

1 10. Plaintiff and her husband traveled to Santa Clarita and Palmdale in
2 November 2022 for testing ADA compliance and leisure travel. She has visited the Los
3 Angeles metroplex at least five times over the past five months, and she and her
4 husband anticipate returning several times in the next few months for required hearings,
5 depositions and further testing. Plaintiff also has concrete plans to lodge at Defendant's
6 hotel in May 2023, but she will not honor her concrete plans if Defendant has not
7 provided notice of remediation by then.

8 11. During this trip, Plaintiff personally visited Defendant's hotel.
9 Defendant's hotel has a passenger loading zone because pickup and dropoff occurs
10 there and it is located directly outside of the lobby entrance. There are also design
11 features showing an intent for utilization as a passenger loading zone. For example,
12 there is a *porte cochere*, which by definition is a design feature for passenger loading
13 zones. According to the U.S. Access Board Technical Guidelines on Passenger Loading
14 Zones, passenger loading zones are so common at hotels that even it recognizes "many
15 hotel entrances" have the design features indicating an intent to utilize as PLZs.

16 12. While at Defendant's hotel, she discovered that Defendant's hotel has a
17 barrier to entry to the lobby, which is that the passenger loading zone does not have an
18 access aisle compliant with Section 503.3. It is an absolute requirement to have an
19 access aisle at a passenger loading zone pursuant to Section 503.3. The requirement of
20 an access aisle at a passenger loading zone relates to Plaintiff's disability of not having
21 one leg and being forced to use a wheelchair because access aisles are required so
22 persons in a wheelchair can maneuver without threat of danger from other vehicles and
23 without other encumbrances blocking their pathway. The lobby, therefore, is
24 inaccessible to Plaintiff by way of the passenger loading zone because there is no access
25 aisle.

26 13. Plaintiff gained actual and personal knowledge of a barrier while visiting
27 Defendant's hotel (no access aisle at passenger loading zone), and as a result, she was
28 deterred from entering the hotel. She anticipates returning to this hotel and has concrete

1 plans to do so in May 2023 (see above), but she will only lodge at the hotel if
2 Defendant puts the required access aisle into place and gives notice of such remediation
3 before her definitive return. Visiting otherwise would be futile because the lack of the
4 access aisle represents a barrier to entering the lobby.

5 14. It is readily achievable to modify the hotel to provide an access aisle.
6 Provision of an access aisle is extremely inexpensive; it involves painting and
7 measuring tools.

8 15. Without injunctive relief, Plaintiff and others will continue to be unable to
9 independently use Defendant's hotel in violation of her rights under the ADA.

10 **FIRST CAUSE OF ACTION**

11 16. Plaintiff incorporates all allegations heretofore set forth.

12 17. Defendant has discriminated against Plaintiff and others in that it has
13 failed to make its public lodging services fully accessible to, and independently usable
14 by, individuals who are disabled in violation of 42 U.S.C. § 12182(a) and §
15 12182(b)(2)(iv) and the 2010 Standards, as described above.

16 18. Defendant has discriminated against Plaintiff in that it has failed to
17 remove architectural barriers to make its lodging services fully accessible to, and
18 independently usable by individuals who are disabled in violation of 42 U.S.C.
19 §12182(b)(A)(iv) and the 2010 Standards, as described above. Compliance with the
20 2010 Standards would neither fundamentally alter the nature of Defendant's lodging
21 services nor result in an undue burden to Defendant.

22 19. In violation of the 2010 Standards, Defendant's hotel passenger loading
23 zone does not have a disability access aisle compliant with Section 503.3 of the
24 Standards.

25 20. Compliance with 42 U.S.C. § 12182(b)(2)(A)(iv) and the 2010 Standards,
26 as described above, is readily achievable by the Defendant. *Id.* Readily achievable
27
28

1 means that providing access is easily accomplishable without significant difficulty or
2 expense.

3 21. Defendant's conduct is ongoing, and Plaintiff invokes her statutory right
4 to declaratory and injunctive relief, as well as costs and attorneys' fees.

5 22. Without the requested injunctive relief, Defendant's non-compliance with
6 the ADA's requirements that its passenger loading zone be fully accessible to, and
7 independently useable by, disabled people is likely to recur.

8 WHEREFORE, Plaintiff demands judgment against Defendant as follows:

- 9 a. Declaratory Judgment that at the commencement of this action Defendant
10 was in violation of the specific requirements of Title III of the ADA
11 described above, and the relevant implementing regulations of the ADA;
- 12 b. Permanent injunction pursuant to 42 U.S.C. § 12188(a)(2) and 28 CFR §
13 36.504(a) which directs Defendant to take all steps necessary to bring its
14 passenger loading zone into full compliance with the requirements set
15 forth in the ADA;
- 16 c. Payment of costs and attorney's fees;
- 17 d. Provision of whatever other relief the Court deems just, equitable and
18 appropriate.

19 **SECOND CAUSE OF ACTION**

20 23. Plaintiff realleges all allegations heretofore set forth.

21 24. Defendant has violated the Unruh by denying Plaintiff equal access to its
22 public accommodation on the basis of her disability as outlined above.

23 25. Unruh provides for declaratory and monetary relief to "aggrieved
24 persons" who suffer from discrimination on the basis of their disability.

25 26. Plaintiff has been damaged by the Defendant's non-compliance with
26 Unruh.

27 27. Pursuant to Cal Civ. Code §52, Plaintiff is further entitled to such other
28 relief as the Court considers appropriate, including monetary damages in an amount of
\$4,000.00, and not more.

